

1 KEVIN A. DARBY, ESQ. (#7670)
2 TRICIA M. DARBY, ESQ. (#7956)
3 TYLER M. ELCANO, ESQ. (#10578)
4 DARBY LAW PRACTICE, LTD.
5 4777 Caughlin Parkway
6 Reno, Nevada 89519
7 Telephone: (775) 322-1237
8 Facsimile: (775) 996-7290
9 E-mail: kevin@darbylawpractice.com
10 tricia@darbylawpractice.com

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11 Attorney for Debtors

12 **UNITED STATES BANKRUPTCY COURT**
13 **DISTRICT OF NEVADA**

14 In re:

CASE NO. BK-N-11-51275-BTB
Chapter 13

15 BRIAN N. SHOWERS and MISTY L
16 SHOWERS,

MOTION TO MODIFY CONFIRMED
CHAPTER 13 PLAN

17 Debtors.

Hearing Date: February 17, 2012
Hearing Time: 2:00 p.m.

18 _____/
19 BRIAN N. SHOWERS and MISTY L. SHOWERS (“Debtors”), by and through their
20 counsel, DARBY LAW PRACTICE, LTD., hereby move this Court for Approval to Modify
21 Debtors’ post-confirmation Chapter 13 Plan, pursuant to 11 U.S.C. §1329, for the reasons set
22 forth below. This Motion is supported by the Declaration of Debtors and the following points and
23 authorities.

24 **POINTS AND AUTHORITIES**

25 **I. STATEMENT OF FACTS**

- 26 1. The Debtors filed the above captioned Chapter 13 bankruptcy case on April 18,
27 2011. Dkt. No. 1.
28 2. The Debtors’ Chapter 13 plan of reorganization was confirmed pursuant to an

1 order entered herein on October 26, 2011 ("Confirmation Order"). Dkt. No. 33. The Chapter 13
 2 plan was proposed as a 100% plan with monthly payments in the amount of \$1,385.00. The
 3 Confirmation Order required arrears of \$5,931.14 on the first deed of trust held by Wells Fargo
 4 Financial Nevada to be paid through the plan.

5
 6 3. Since the filing of the Chapter 13 petition, \$27,707.06 in unsecured claims have
 7 been filed with the Court. The last date to file proof of claims for all non-governmental units was
 8 September 1, 2011. Dkt. No. 9.

9 4. The Debtors have made approximately eight payments in the total amount of
 10 \$11,080.00 to date. The Debtors' average monthly payment is \$1,385.00.

11 5. Since the filing of the bankruptcy, the Debtors have fallen behind on their
 12 mortgage payments in the amount of \$5,004.33. Declaration of Debtors. The Debtors seek to
 13 include these arrears in their Chapter 13 plan. Id.

14
 15 6. Inclusion of the first mortgage arrears and a 100% pay-off of all filed proof of
 16 claims would result in a payment plan of \$716.47 for the remaining 52 months of the plan. This
 17 would result in a plan base of \$48,336.44.

18 II. LEGAL DISCUSSION

19 7. 11 U.S.C. §1329 provides, in pertinent part:

20 (a) At any time after confirmation of the plan but before
 21 the completion of payments under such plan, the plan may
 22 be modified, upon request of the debtor, the trustee, or the
 holder of an allowed unsecured claim, to-

23 (1) Increase or reduce the amount of payments
 on claims of a particular class provided for by the plan;

24 (2) Extend or reduce the time for such
 payments;

25 (3) Alter the amount of the distribution to a
 26 creditor whose claim is provided for by the plan to the
 extent necessary to take account of any payment of such
 27 claim other than under the plan
 28

